



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Mary Elizabeth Heffernan
Secretary

The Commonwealth of Massachusetts
Department of Public Safety
Architectural Access Board
One Ashburton Place, Room 1310
Boston, Massachusetts 02108-1618
Phone 617-727-0660
Fax 617-727-0665

Thomas G. Gatzunis, P.E.
Commissioner

Thomas P. Hopkins
Director

www.mass.gov/dps

Board Meeting – July 30, 2012

21st Floor – Conference Room 1

Present Board Members:

- Diane McLeod, Acting Chair (DM)
- Andrew Bedar, Member (AB)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Donald Lang, Chair
- Gerald LeBlanc, Member (GL)
- Walter White, Executive Office of Public Safety Designee (WW)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

1) **Incoming:** Condos, 264 Mass. Ave., Arlington (V12-187)

TH - EXHIBIT – variance application

- seeking to maintain lock on the lift
- fob access to unlock the lift
- lift is inside the locked lobby

MB - grant as proposed

MT - second – carries with CS opposed

2) Incoming: Lodging Facility, 116 Cedar St., Malden (V12-193)

TH - EXHIBIT – variance application

- existing, spending over 30%
- Group 2B requirement
- 8 variance requests

CS - hearing

AB - second - carries

3) Discussion: Panera Bread, 1684 Mass. Ave., Lexington (V12-016)

TH - plan submitted on 7/26 by Carolyn Farrugia, showing the closed patio and path of travel to the patio

- need variance for lack of clearance at vestibule

CS - grant the variance for 26.7

MT - second – carries

AB - accept the path of travel from pickup to the patio

MT - second – carries

CS - accept plan for closing the patio, implement that plan within 30 days receipt of the decision

AB - second - carries

- Walter White, Executive Office of Public Safety Designee (WW)
 - Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Now Present

4) Incoming: Dipper Café, 1367-1369 Purchase St., New Bedford (V12-155)

TH - second presentation, first was 6/25/12

- seeking dimensional variances for the bathrooms, but have since submitted new plans showing compliance (EXHIBITS)
- walkway to the side entrance, a few feet from the front entrance
- seeking variance for the lack of access for the front entrance
- the bathrooms will now be fully compliant

WW - grant as proposed

AB - second – carries

5) Discussion: Rooming House Lodging Facility, 40 Temple St., Boston (V11-137)

TH - new owners seek no access to the building (letters – EXHIBIT)

- Parks Department has denied access thru the adjacent park
- Beacon Hill Neighborhood Association asked for Stop Work Order, which has been in place
- if the stop work order is not lifted, they will lose their lodging house license
- the room within the lodging house will be accessible, but the accessible entrance cannot be provided at this time

WW - *grant as proposed*

MT - *second – carries with CS Opposed*

6) Discussion: DeLuca's Market, 7-17 Charles St., Boston (V11-232)

TH - new submittal and site visit conducted

- pictures of site visit (EXHIBIT)
- excavated more of the space that was under the store, and the proposal was to enlarge the wine cellar
- spreadsheet on his personal laptop
- seeking to open wine shop
- also seeking to open the store by Labor Day
- also now proposing a LULA to access the wine cellar
- new information and photographic evidence of the expansion of the lower level space (EXHIBIT)
- therefore, previous variance for lack of access is not valid anymore
- two levels of the wine cellar, saying that LULA will access both levels of the wine cellar

- Gerald LeBlanc, Member (GL) – Now Present

MB - *grant the use of a LULA for access to the wine cellar and to allow Boston ISD to provide a temporary occupancy permit, on the condition that the signed contract and the check for the deposit on the LULA is received by this Board prior to opening of the store and that the LULA be installed, inspected and operable by May 1, 2013.*

CS - *second – carries*

GL - *copy of stamped architectural plans for the LULA, to be included with the contract and the check submittal*

AB - *and shop drawings by same date, GL accept*
- second - carries

CS - *rescind the prior granting of the lack of vertical access to the wine cellar, in light of the fact that the space is expanding and that the LULA is installed as proposed*

GL - *second – carries*

MB - *maintain the requirement to provide the computer screen with the list of available wines, as well as a location for tastings at the accessible level, with the screen located in the entry to the wine cellar, while the store is still under construction; once the store opens, the computer screen shall be provided within*

the store to allow for review of wine list and for wine tastings, until such time that the LULA is provided and operational.

CS - second - carries

7) Incoming: Isabella Stewart Gardner Museum, 25 Evans Way, Boston (V12-189)

TH - 3 dockets (V11-147, C12-031 and current)

- new museum portion, complaint filed regarding the access to the upper balcony areas of new auditorium
- seeking variance to maintain the vertical lift

WW- schedule a hearing

MB- second –

MB - spent money and new construction and the hearing won't change the design
- concerned with the fact that they would put in a noncompliant feature, and the complaint testifies that it doesn't work for people

CS - would like to hear from the complainant in person

- carries

8) Incoming Discussion: Asylum Fitness, 280 Wilbraham St., Monson (C10-070 and V12-163)

TH - spoke with owner on 7/25/12

- owner said that disabled patrons due use the swipe card system
- arguing that \$5,000.00 to lower the counter
- complainant identified himself as an AAB Inspector and that he was there to inspect the premises
- owner was so flustered, did not question that
- they now agree that it is a service counter
- proposing the new counter, and moving the swipe card to the lower level

WW - grant variance for 7.2.2 as proposed

MT - second - carries

MB - speak with the Commissioner and Counsel of Public Safety and express the entire Board's concern that this person is misrepresenting the Board; something needs to be done

CS - letter sent directly to Scott Ricker from DPS if so advised

MB - accept CS amendment

WW - second – carries

9) Incoming: Audi of Shrewsbury, 780 Boston Turnpike, Shrewsbury (V12-200)

TH - EXHIBIT – variance application

- new car dealership
- built a route around the site with stairs, but no accessible route
- seeking to maintain the stairs

GL - deny

AB - second – carries

10) Incoming Discussion: Stone Institute of Elder Residences, 277 Eliot St., Newton (V12-129)

- TH
- amendment request, elder residents, staff would like to replace to unused tubs
 - new installation of showers
 - the shower that are proposed are prefabricated, with a little bit of a threshold and fold-down seat
 - all residents are assisted

- MB
- elderly resident that uses wheelchair could be a tripping hazard
 - an inch or so lip is a tripping hazard, can't use shower chair

MB - grant on the condition that insert installed to create compliant threshold

AB - second – carries with CS not present

11) Incoming: Westminster Apartment Village, 1307 Pawtucket Blvd., Lowell (V12-156)

- TH
- jurisdiction now established, over 30%
 - Variance application (EXHIBIT)
 - 22 required in 199 renovation, 20 provided
 - this renovation is now adding the additional 2 accessible units
 - 3 variance requests
 - slope of existing parking spaces, argue tech. infeasibility, based on surface work potentially triggering ground water project
 - noncompliant slopes of 2.9%-4.5%
 - buildings are occupied currently

MB - grant – based on both cases of impracticability

WW - second – carries

- TH
- 22 units, spread out the 22 over the 2 and 3 br unit count, only 2 and 3 brs provided
 - requesting variances for the lack of access to the secondary half bathroom due to the location of structural wall

MB - grant based on tech. infeasible

MT - second – carries

- TH
- variance for 47.2, regarding maneuvering clearances to the doors at the third bedroom, due to the structural walls

WW - *grant based on tech. infeasibility*
AB - *second – carries with CS opposed*

12) Discussion: Grafton Public Library, 35 Grafton Common, Grafton (C08-186, V10-074)

TH - set a deadline of November 1, 2012 to implement access
- seeking until April 15, 2013 to comply with the order of the Board

WW - *grant time extension to April 15, 2013, on the condition that detailed plans regarding LULA, bathrooms, etc. to be submitted by November 1, 2012*

MB - *second - but they show an accessible path of travel from the parking space, and an inaccessible path of travel from the parking lot*
- *carries*

13) Discussion: Deluca's Market, Boston

WW - *reopen Deluca's*

MT - *second – carries*

WW - *motion to expedite the decision*

MT - *second – carries*

14) Discussion: Cases of the Day

TH - if they all don't show up, that were subpoenaed, then continue
- original plan showed compliant toilet room, built without accessible toilet room, unsure who changed the design

DM - they are seeking variance for location of accessible toilet room and lack of vertical access

TH - yes, but "accessible toilet room" not accessible, and also need variance for lack of accessible means of egress

DM - if someone doesn't show, then need to make a motion to bring the matter to the AG for enforcement

TH - first hearing, 6 months of emails about where the variance is
- applicant had thought that mass historic was supposed to submit the application

CS - grass parking

MB - allow temporary parking, but still have to be marked and signage installed

TH - yes, but this is permanent

TH - last hearing, building sitting on a grade

15) Discussion: Ferry Terminal, 707 Shirley St., Winthrop

- TH
- no variance or complaint
 - but recent queries from building department and BBRS
 - building inspector issued recent ruling to stop work, since not under the guidance of design professional
 - had to reengage the architect, and work proceeded without supervision of professional, and sidewalk built, ramps don't comply, bathrooms do not comply
 - terminal being used, but no occupancy permit
 - new building inspector coming in, old building inspector gave notice

CS - *motion for a site visit to be held*

GL - *second – carries*

CS - *no use of the premises and the building shall be closed until the matter is resolved before the Board*

GL - *second – carries*

CS - *expedite*

AB - *second – carries*

16) Discussion: Barrington Stage Company, 30 Union St., Pittsfield (V12-190)

- TH
- older variance V06-050
 - variance application (EXHIBIT)
 - second floor space, Barrington Stage was a tenant
 - building now bought by Barrington stage company
 - previously VFW at basement with interconnecting stair to upper level
 - now proposing to open Mr. Finn's Cabaret at the basement level space
 - 8% ramp slope to the lower level
 - Barrington stage is fully accessible from the street
 - seeking time for vertical access to the lower level, bathrooms, and entrances, until May of 2015

GL - *deny*

AB - *second –*

- TH
- in 2006 tenant spent over 30%, so triggered common areas for the stairs to the basement and the entrance
 - it's an outstanding violation
 - *carries*

17) Hearing: Francis Wyman House, 56 Francis Wyman Road, Burlington (V12-083)

- DM
- called to order at 11 a.m.

- introduce the Board

John Goff, Historic Preservation and Design, Architect (JG)

Jon Wyman, President of Francis Wyman Association (JW)

DM - both sworn in

- EXHIBIT 1 – AAB1-39

JG - 2 ½ story colonial building

- oldest surviving landmark in Burlington

- owned by Francis Wyman Association, run by Wyman ancestors

- in 1996 bad fire at the home in November

- in 1996 the first phase of work was done in 1996-1997, to restore the weather envelope of the building (new roof, windows, shingle, etc)

- after that point, no longer residential caretaker, fully a restored to a home museum

- Phase 2 started in 2010-2011, additional money to make access improvement

- Phase 2 focused on providing new temporary ramp, restructure and stabilize floors and widen doorways

- state funds used for Phase 2

- AAB28, pic of house from southwest corner

- AAB30-33, plans that were prepared after the fire

- initially proposed ramp at the east side with permanent accessibility

- between Phase 1 and 2, and determined that east lawn was archeologically sensitive, so shifted entrance to South front door, with use of temporary ramp in place when the museum is open.

- AAB34, is the Phase 2 plan

- AAB35, shows how doors were widened

- shift in personal for FWA, Jon Wyman is now the president of the FWA

- proposal is to only use the first floor of the home for museum purposes, AAB8 shows accessible spaces

DM - start with variance for the parking variance request

JG - hard packed dirt with grass, the local disability commission has approved signage but not striping\

DM - picture of signage as EXHIBIT 2

CS - gravel not grass?

JW - grassy gravel

CS - *grant as proposed on the condition that the sign is maintained and area is maintained*

GL - *second – carries*

DM - 24.1, portable ramp attached when museum is open

- CS - automatically setup
- JW - will be assembled anytime that there is an open house
- this summer have had open houses on the second Saturday of each month
- CS - *grant the use of the portable ramp, on the condition that the ramp is in place any time that the museum is open*
- AB - *second – carries*
- DM - 28.1, lack of access to the second floor
- JG - currently just empty space, but if there are any exhibits at the second floor, then will do visual display of what is upstairs at the first floor
- very similar to downstairs, although not as badly impacted
- CS - what will be at second floor
- JG - there are some things about the second floor that are interesting, such as the chimney, but even the stairs are very narrow
- CS - members of the public could go to the second floor?
- JG - yes, but cannot get wheelchair to the second floor
- more architectural aspect of history
- how the landscape changes and the building changed
- CS - are there tour guides
- JW - there are two people on the Board that do instructional tours
- the Wyman's occupied the house through the 1700's
- in 1898 set up the FWA to preserve the house for future generations
- RG - would like to see a narrated video at the first floor
- JG - the house has been videoed by a local historian, with a show on the cable access channel
- can take video of upstairs and show downstairs
- MB - *grant the lack of vertical access to the second floor, based on historic nature, and on the condition that video of the inaccessible portions of the house be provided at the first floor*
- CS - *with the video regularly updated when needed*
- GL - *second – carries*
- JG - no toilets in the building
- been thinking of Phase 3 hope and include renovation of an existing barn and install fully accessible toilet
- WW - *no variance needed, since no toilet provided within the building*
- GL - *second – carries*

KS - what about the stairs, since over 30%

DM - any pictures of stairs, will need variance for those as well

JG - AAB33 shows the stairs in plan
- Georgian stair hall

MB - continue stair issue, to have petitioners submit photographs and amended variance request, by September 1, 2012

WW - second - carries

18) Incoming: The Public Market, 8 Main St., West Stockbridge (V12-191)

TH - variance application (EXHIBIT)
- two-story building, first floor market, second floor employee only offices
- seeking sloped entrance landing with auto-opener (1:12)

WW - grant as proposed

MB - second - carries

19) Incoming: Muralago, 11 Mill Wharf Plaza, Scituate (V12-198)

TH - variance application (EXHIBIT)
- existing building, reconstruction of failed building envelope and gut renovation
- spending over 30%
- seeking variance for all of the front entrances, other entrances at rear parking
- Independence Associates is opposed

CS - deny all

MB - second – carries

20) Incoming: Modern Snack Bar, 342 Alden St., Fall River (V12-192)

TH - variance application (EXHIBIT)
- new construction of 2-story sports bar
- first floor restaurant and bar, second floor function space
- variance for main entrance and vertical access, proposing vertical wheelchair lift

MB - deny both

WW - second – carries

21) Incoming: Modern Snack Bar, 342 Alden St., Fall River (V12-192) – Cont'd

- MB - motion to issue stop work order immediately, until the apparent access issues are resolved*
GL - second – carries

22) Discussion: Dreamland Theater, 17 South Water St., Nantucket (V12-057)

- TH - follow-up plan submitted 7/27/12
- provided drawing that shows a cantilevered design that shows the fix from the platform
- pics of the building (EXHIBIT)

- CS - accept the plan for accessible egress with the work done by October 2012*
MB - second - carries

MB - amend previous motion compliant handrails at both sides, and compliant nosings by the October 2012

CS - accept and add

- AB - second*
- carries with WW and GL not present

23) Incoming: Essex Northshore Agricultural and Technical School, 562 Maple St., Danvers (V12-194)

- TH - variance application (EXHIBIT)
- new 3-story school
- connection between upper and lower campus, there are four locations with routes with stairs over 16 feet
- use the building to access other locations other than the stair route
- Route 1, area to the left of the plan, set of stairs that provide access to lower level parking lot, no accessible spaces at the lot; accessible spaces closer to the building; nothing else but parking in this area

- MB - who is parking there?

MB - grant relief for the lower parking level, on the condition that written policy is created to notify the public on how they can request accessible parking for public events,

RG - and directional signage to accessible parking spaces

MB - accept

AB - second – carries

- TH - Route 2, proposed sidewalk with steps between upper and lower level, ramp between these two locations would require 234 feet of landing
- access thru the building if need be

- MB - what is down there?
- why is the route there? Need to notify people the route is thru the building
- need to make sure the door is unlocked

- TH - statement was made in the application that the route thru the school is accessible

MB - rescind original motion for Route 1
CS - second –carries with MT and WW opposed, GL not present

CS - continue to have the Petitioners submit the accessible route thru the building,
MB - second, and what is the communication between the lower and upper level, what is each building used as
CS - accept
- carries with MT and WW opposed, GL not present

24) Hearing: Marita Palvaccini, 4 Neptune Rd., East Boston (V12-054)

DL - called to order at 1 p.m.
- introduce the Board

Alvaro Lucena, Designer (AL)
Jose Martinez, Martinez Construction (JM)
Larry Young, Boston Engineer (LY)
Marita Palavicini, Owner (MP)
James Christopher, Roche-Christopher Architecture, LLC (JC)
Diane Modica, Attorney for the owner (DMo)
William Christopher, Roche-Christopher Architecture, LLC (WC)
Frank D'Amato, Inspectional Services Department Boston (FD)

JM - worked on the project 2008, beginning of project, ended in 2008
AL -first set of plan, with LY, worked with them from 2008-2011
LY - engineer that stamped the plans 2008-2010, but no control of the project thereafter
WC - architect that requested variances in 2010
- current architect
FD - East Boston Building Official, December 2010-present
DMo - attorney for the Palavicini's, March of 2010-May 2011, represented them at the Board of Appeals
MP - representing mother, who is the owner
VP - owner

DM - all but JC sworn in
- EXHIBIT 1 – AAB1-112

FD - any documents in his possession, regarding any information regarding the property

DM - accept Packet as EXHIBIT 2

DMo - documents A-F regarding Board of Appeals Zoning, time of first denial to use as function hall
- February of 2009-May of 2010

DM - EXHIBIT 3, accepted packet from DMo

- MP - short and long permit forms for occupancy change, and invoices from contractor, permit forms
- and a letter from office of business development, to obtain grant for the windows that were installed as part of the job
- DM - EXHIBIT 4, submittal from MP
- MP - pictures of the existing bathroom 8 total
- DM - accepted 8 photos as EXHIBIT 5
- JM - submittal of documents regarding the property
- DM - building permit, site plan, inspection notes, - accept as EXHIBIT 6
- MP - original Plans
- KS - the same as the plans on file
- DM - swear in Thomas Hopkins, Executive Director for the Board (TH)
- TH - original variance came before the Board in 2012, submitted by William Christopher
- variance was for the lack of access to the basement area and then the location of the accessible toilet room
- AAB46 & 47 shows basement area toilet rooms
- AAB46, note in red pen, by TH regarding exit balcony dimensions
- AAB40, question #16, indicated that the project was in the permitting phase; project had been in progress since 2008
- AAB36 Notice of Action where specific variances were granted based on the documents submitted, on the condition that the toilet room is modified to meet the dimensional requirements of 72" x 90"; since toilet room shown did not work dimensionally for a person in a wheelchair, based on the assumption that the work had not been done, ordered that modified plan for accessible toilet be submitted, then owner and architect called to say that building is existing and already modified
- DM - smaller version of the plan – EXHIBIT 7
- DM - submitted plan to the owner
- LY - stamped the 2008 plan
- AL designed plan, only stamped after reviewed original plan never came back to the project
- DM - after the plan was submitted to you what happened
- MP - there used to be walls within the space, that were demolished and then built out by the contractor

- after plans reviewed with AL
- went over changes with JM
- nothing there prior to bathroom
- assumed that would be built as designed since professional contractor

DM - what happened when given to JM

- JM
- went to build and was asked to change the location of the door
 - was built to this design
 - was built to AAB46 design

DM - how did that design get built

- JM
- built it the way the owner's daughter asked

DM - why was the design not accessible, did you at any time ask him to change the design?

- MP
- only discussion was regarding the door

VP - no changes, the problem is that they didn't want to remove existing wall which held all the electrical wall

MB - no dimensions on large exhibit plan, but when JM was given this plan, appears to be much larger

- when given the design, since no dimensions, was this the document given to design to you

TH - new wall built adjacent to the bathroom with the panel

- JM
- yes, framed out that electrical wall

TH - this is the design of the bathroom that was submitted by the new architect

- now a wet wall, electrical wall
- while no dimensions, the original design was closer to being a usable accessible design

FD - building does not have occupancy thus far, only occupancy at retail, so cannot be occupied as function hall

DMo - delay has been extra need for sprinklers, got approval for change of use, but not occupancy permit

WC - has occupancy for the use of the building as a function hall

DM - January 10, 2011, occupancy is not an occupancy permit

FD - confusion is that this is just an acceptance for the occupancy change, not a permit for occupancy

- AAB48, long form permit issued on October 3, 2008
- did not inspect for those permits, 10/2010 was just for sprinkler inspection
- was a retail story before JM was involved, did not have city stamped plans to review the project when inspection was constructed
- AAB48, stated half bathroom, not accessible toilet room

- plans were inspected for installation of half bathroom, no clarification of change in use to change to function hall, there may have been applications for change in use, but this building had the use as a retail

DM - part of Martinez submittal outlined work to be done, contract signed by owner and contractor, different from AAB29

MP - different because reached out for grant to do the work on the windows grant
- needed a final invoice to indicate what was done and what was paid
- second invoice is a later date, it was the final date and payment (AAB11)
- although written as half bathroom, always intention to have accessible toilet room
- purchased the building to convert to function hall, was told by AL that accessible toilet room required

DMo - 2008-2009 build-out, in late 2009 filed to change occupancy to function room
- 2010 occupancy change process brought her involvement

TH - original intention was for function hall, per testimony
- would have required accessible toilet room, not half bathroom

DMo - went thru the process did not find out about building code requirements till the end

TH - but yet plans in 2008 showed accessible toilet room with turning radius

DM - who made the change to the invoice

JM - submittal plans, demo of offices, frame for half bathroom at the first floor

DM - where you originally aware of the larger bathroom design
JM - when the plan began, the design was changed by the owner

DM - need to take the time to review the submitted documentation

WW - what is the current request for the variance application

TH - Notice of Action granted the relief for the lack of vertical access and the location of the accessible toilet room, now seeking to have compliant toilet room at that floor
- there has been no request for the problems with the bathroom

WC - plans submitted with the application showed the T-turn
TH - required to be 72" x 90"
- based on the fact that this was existing when he was on the project
- does not meet the letter, but a T-turn may work

MB - need to enter bathroom and turn around and close the door, need to be able to pull in front of the toilet, or next to the toilet

- although T-designs may be used at the end of a corridor, does not work in a bathroom
- required dimensions of 72" x 90" are needed to make a usable and functional toilet room

TH - also a urinal next to the sink?
WC - yes

MB - FD stated that checked for sprinklers
FD - inspected the fire alarm system
- found during the test, that the long form stated for a retail store
- made clear to MP that purposes was to approve the alarm system for a retail store, not a function space, even though was told by MP that it was to be used as a function hall

MB - air conditioning work needed to be done, was that done?
MP - plumber came in and tested the AC
- when FD came into the building, did not come to inspect work done by JM
- plans submitted and was told that needed to install fire alarm system, completed in December

2010

DM - cost of fire alarm system
MP - \$4-5,000.00
- fire alarm used same plans, made a mistake to ask for retail space alarm system, was supposed to be fire alarm system for a function hall

DM - then needed not only fire alarm system, but needed sprinkler system, not yet installed?
MP - got half of it done
- what was the cost of half of the sprinkler system?
MP - \$18,000.00 done for exterior sprinkler work

MB - did the AC need to be fixed?
MP - no was in good working condition

MP - if have to move walls, would cost thousands of dollars
- thought hired the right people; wall that was built, new electrical system and fire alarm system, and radio monitor for fire alarm system

DM - have to achieve access somehow, finger pointing needs to be addressed in court system, just trying to figure out what the facts are to deal with the only issues regarding access

MB - proposal for emergency egress steps?
JM - they were existing when he did the work
- he built stairs at the exterior in the rear

MB - more than 30% of the assessed value of the building has been spent within the last 3 years
- assessed value, \$100,500.00; 30% would be \$30,150.00

- spending seems to be well over 30% of the assessed value of the building
- critical component is emergency for function spaces
- not accessible egress, can have stairs, but need accessible area of rescue assistance, very dangerous as provided

AB - reiterate what MB said

CS - whose idea was the wall?

DM - doesn't matter, the wall is now in place

RG - can the corner of the wall at the other end be widened?

WC - yes, but the plumbing is along that wall, would require completely relocating the plumbing

MB - noncompliant newly constructed bathroom, can work out who will pay for what amongst the parties, not a matter that the Board will resolve, can only deal with access
- need to know how much was spent on the renovation, much better idea now of what was spent on the facility

WW - continue the matter to review the submitted documentation

MB - second – carries

MP - a lot more work that was put in that is not included in the costs

- hired professionals to do that job

MB - would like owner to submit full detail of amount spent to be submitted no later than September 1, 2012

WW - second – carries

MP - spending \$5,000 on mortgage and hired professionals to do the work

- have to open

DM - can take that into consideration, but can't allow an unsafe inaccessible function hall to open

TH - they need to open so if the Board wants to see the bathroom made compliant, should order that now

DM - perhaps submit request for time variance

- need to get plan of action together

CS - plan for compliance and/or modified variance for accessible toilet room and accessible means of secondary egress by September 1, 2012

WW - second – does it meet the fixture count for plumbing

MB - if that urinal counts to required number of fixtures, that urinal makes that accessible toilet room not usable

- carries

WC - never hired to check

MB - thank you for coming

*** Diane McLeod – no longer present, Mark Trivett as Acting Chair ***

25) Hearing: Garden Cinemas, 361 Main St., Greenfield (V12-089)

MT - call to order at 2:30 p.m.
- introduce the Board

George Gohl, Garden Theater Owner (GG)
William Gobeille, Garden Theater Co-Owner (WG)
Tom Chalmers, Austin Design (TC)

MT - all sworn in
- EXHIBIT 1- AAB1-64

TC - built in 1928 as a single theater, that consists of street front building, with first floor lobby for cinema and 5 offices, 6 storefronts; 2nd floor was originally offices, but vacant for several years
- in the mid-1980's converted from single theater, to seven theater multiplex
- 3 theaters at the main seating area, two at the stage area, and 2 at the balcony area
- current owners have been working on the building for awhile
- green items, have been done or are in the process of being done
- first as time then permanent variance
- AAB55-63 is item by item

TC - anything in theater 4 or 5 would conflict with showing of the film, propose alternate areas of rescue assistance adjacent to egress plan
- seeking 2 years to provide area of rescue assistance for beyond the concession, Theater #4 and #5.

MB - how many egresses?
TC - 10 total

AB - dimension of egress?
TC - corridor is not that wide, but there can be two locations within the egress corridor
- a little over 5 feet wide
- have enough for two wheelchairs front and back and then clearance beside the wheelchairs for others to get by?
TC - would have to meet the 30"x48" dimensions plus the corridor

MT - 20.12, exception for area of rescue of assistance

GG - parts are sprinklered
- built in 1928
- at that time, sprinklers required where people were not going to be
- sprinklers at crawl spaces, the stage itself, and fire exits,

MB - *no variance required based on exception of 20.12*

GL - *second – MB and GL in favor, RG abstained, AB and CS opposed; MT opposed, motion failed; WW not present*

TC - seeking 24 months to accumulate funds

CS - *grant them until September 1, 2014 to provide the required areas of rescue assistance as proposed for beyond concession, and Theater #4 and 5*

AB - *second – RG, AB, and CS in favor; MB, WW, and GL opposed – MT opposed, motion fails*

MB - *reconsider the vote regarding the jurisdiction of area of rescue assistance*

WW - *second – carries*

MB - 20.11 says accessible area of rescue assistance be provided; but 20.12 states that areas of rescue assistance are not required in a) existing building undergoing renovation or alteration

MB - *based on exception of 521 CMR 20.12, no variance required, since exempt from requirements*

WW - *second – MB, WW, GL in favor, AB, CS, and RG opposed – MT in favor, motion carries*

TC - time request for elevator to the second floor, to access Theaters 6 and 7
- Theaters 1-5 accessible via existing lift

GG - revolving movies in theaters, for opening weeks, hold in larger theaters (1, 2, 6 and 7) and then after two weeks, rotate to the smaller theaters (3, 4, and 5)

TC - seeking 5 years to provide elevator access
- currently been spending money at the first floor tenant spaces and within the cinema space

RG - have to finish at 5 years?
KS - yes would have to

CS - looked into a lift?
TC - couldn't be a lift, could be a LULA, and would prefer the full elevator

GG - always been policy to move movies
- most people know that theater 6 and 7 are not accessible
- we are the only movie theater in Franklin County

- MB - concerned hard and fast policies about large movies playing
 GG - always start large movies in Theater 2 since that is the biggest theater
 - when big blockbuster comes out shouldn't have to wait 2 weeks
 GG - yes, start in Theater 2, works because accessible and the largest number of seats
- GL - need to know if the theater is accessible prior to going to the theater
- MB - can you change the voice dial system to state accessible theaters
 WG - can't change website all the time, but could list in the paper
- WW - estimate for elevator?
- GG - LULA is \$65-70,000.00
 - full elevator \$150,000.00
- WW - original spending \$240,000.00
- GG - not a lot of people in the area, so need the time to accrue the funds
- MB - is it possible to move a show to another theater at request?
 GG - still film not digital, would be easier if digital
- MB - grant the 5 year time variance*
WW - second
GL - annual progress reports
MB - yes, starting September 1, 2013
- and on the condition that movies are rotated with notification on the call-in system, website,
and newspaper as to what theaters are accessible
- carries with CS opposed
- TC - in 1985 when buildings set up, followed original building structure
 - within the theaters, issue of aisle slopes
 - existing corridor ramp slopes
 - variance #3 and 4, down and up slope within corridor to Theaters 4 and 5, will be adding handrails
 - technical infeasible due to the domino effect
 - slope down is 9.2-12.3% with 72 feet, and no landing for variance #3
- MB - grant all requested within variance #3, based on technological infeasibility*
WW - second – carries
- MB - grant variance #4, based on tech. infeasibility*
WW - second – carries
- TC - variance #5 is slope aisles in theater 1-3 for ramp slope and length

MB - grant variances requested for #5, based on tech. infeasibility

WW - second - carries

MB - signage at ticket counter regarding assistance provided upon request

WW - second – carries

TC - variance #11, Theater 2 slope starts right inside the entrance doors

MB - grant the variance for variance #11, based on tech. infeasibility

WW - second – carries

TC - variance #12, same floor outside of Theater 2

MB - grant the variance for #12, based on tech. infeasibility

WW - second – carries

TC - variance #6

CS - run by the disability commission in Greenfield

TC - yes, but no response

TC - variance #6 for time for assistive listening system

GG - looking to convert to digital and would like to add assistive listening system and captions for the films, it would be part of the equipment that is purchased with the digital conversion

MB - would be willing to announce that assistive listening devices available as each theater is converted

GG - yes

MB - grant the variance to September 1, 2014, on the condition that implemented as laid out in #6, provided that as each new system comes on board, advertise that assistive listening devices are available, and that progress reports are submitted every 6 months, starting February 1, 2013.

WW - second –

*GL - visual devices as well, captioning
- carries*

TC - variance #7, egress doors from theaters

- with the exception of a couple of the doors, two 30” leaves, at entrance using auto-openers

- at egress, replacing equal pair with unequal pair to provide the required clear width

WW - grant to September 1, 2014, as proposed for #7

AB - second – carries

TC - variance #8, first part has to do with clearances, 10” clearance (12” required); cross slope at both sides of the doors

- seeking permanent relief

WW - grant #8, based on tech. infeasibility

GL - second – carries

TC - variance #9, theater 1 and 3, has to do with sloped areas at the doors
- slope continues down

MB - grant variance #9, based on tech. infeasible

WW - second – carries with CS abstaining

TC - variance #10, also regarding the slope at the exterior paved egress walk
- same as interior grade, with a slope varying 9-16% with a 7% average

MB - grant variance #10, based on tech. infeasibility

WW - second – carries

TC - variance #13, accessible route to theater #3
- tied to the construction of the building and the separation into separate theaters
- series of stairs connected to different levels

WW - grant #13, based on tech. infeasibility

GL - second

CS - stairs lead to where?

TC - egress at exterior

- carries

TC - variance #14

WW - grant on condition that handrail added at wall side (Variance #14) based on tech. infeasible

GL - second – carries

TC - variance #15, door pull side clearances
- four clearances, push and pull in each of theater 4 and 5

MB - pull side clearance needed for these theater entrances

MB - grant the variances for doors in theater 4 and 5, on the condition that auto-openers placed

TC - doors are not latched, just on closers
- could switch swing of the doors

MB - withdraw

MB - change the swings of the entrance doors into theater 4 and 5, and remove the partition between the two doors, by February 1, 2013

WW - second – carries

TC - variance 16 and 17, same slope issue

MB - grant variances for 16, based on tech infeasibility

WW - second – carries

TC - variance 17 is for step down at theater 6, inconsistent tread widths

MB - handrails at the wall side?

GG - not yet, but proposed

MB - grant variance #17, tech infeasibility and on the condition that handrails at wall side

WW - second – carries

WW - grant the variance for no handrails at the center aisle of Theater #7

MB - second – carries

TC - variance #20, stair lobby handrails

- original handrails at lobby stairs, maintain handrails and put in compliant wall side handrails

MB - grant relief for historic central handrails, on the condition that compliant wall side handrails are installed by February 1, 2013

WW - second – carries

TC - variance #21, accessible wheelchair spaces

- permanent variance , but can get two level spaces in theater 2

GG - there are 3 spaces in 1, 4 in #2, and 2 in #3

- they are sloped 9%

TC - in theater #2, can put a space

- there are level seating areas in 4 and 5

MB - when planning to put platforms in theater 1, 2, and 3

GG - possibly in the spring or fall of next year for theater 2 which will require the most amount of construction

MB - could one be done every 6 months

MB - grant a time variance for the accessible seating platforms, with theater #2 done by 2/1/13, next theater done by 8/1/13 and final done by 2/1/14

WW - second

GL - slope
- carries with CS opposed

MB - grant relief for the number of accessible seating locations provided within theater 1, 2, and 3, so that the number of spaces are compliant and on level platforms

WW - second – carries

*** NO MORE GL ***

TC - variance #18, storefront for Brad's Place
- small diner restaurant
- very tight, to get to the rear, with accessible table seating at the front of the restaurant

GG - 3 four-person tables at the front, with movable seating
- variance for passage width to back of the restaurant, only 26"

CS - grant the variance for 20.3

WW - second –

RG - where is the bathroom

GG - at the rear,

TH - if all tenant spaces, then not within the jurisdiction of the spending on the movie theater

CS - withdraw since no jurisdiction over the interior of tenant space

CS - no variance needed for the interior of other tenant spaces, just the entrances are under the jurisdiction of the Board, therefore no variance needed for #18

RG - second – carries

TC - variance #19, combined entrance vestibule doors, auto-opener at exterior and reversed swing so no issue at vestibule clearances

WW - been resolved based on testimony, and no variance needed

AB - second – carries

26) Incoming: Nashoba Valley Tube Park Lodge, 79B Power Rd., Westford (V12-195)

TH - variance application - EXHIBIT
- just under 30% and \$100,000, work performed
- connecting upper and lower floor
- seeking variance for no interior vertical access

MB - deny

WW - second – carries

27) Incoming: First Parish Church of Dorchester, 10 Parish St., Dorchester (V12-199)

- TH - variance application – EXHIBIT
 - reconstruction and exterior renovation, project to start in august of 2012 for entrance, modification to pews for accessible seating, replace door hardware, signage provided
 - seeking variances for time to address the rest of the compliance matters, to be completed by 2016, seeking permanent variance for lack of access to the balcony, and some other issues

MB - grant a permit for the proposed immediate accessibility upgrades

AB - second – carries with CS not present

MB - schedule a hearing for all other work proposed in the next 4 years, and any permanent relief

AB - second – carries with CS not present

28) Discussion: Jackson Homestead, 527 Washington St., Newton (V12-087)

- TH - submittal, but doesn't line up

CS - amend decision to submit by August 11, 2012, approve

MB - second – carries with RG not present

29) Discussion: Community Christian School, 39 South Broad St., Westfield (V10-101)

- TH - issued decision in 1/2010,
 - had been given a deadline to provide vertical access for the school, with the deadline being either move to accessible building, or provide vertical access 9/1/12
 - supposed to submit status reports starting 1/1/2011, policy due in 9/1/10
 - email sent for follow-up, owner of the school responded that the deal fell thru on the building, and submittal of written accommodation

MB - notify the Petitioners that the lack of notification does not change the obligation, variance was granted for the lack of access to the second floor will expire on the 9/1/12 deadline, building official shall rescind the occupancy permit for the second floor at that time if no access is provided

AB - second – carries

CS - have staff do site visit, to confirm first floor access

MB - second – carries with RG not present

30) Incoming: Nappi's Restaurant and Shop & Go Convenience, 370-374 Salem St., Medford (C11-004 and V12-196)

- TH - new variance application submitted in the face of the complaint hearing held
 - commission is adamantly opposed to any variance relief

MB - deny

AB - second – carries with RG not present

MB - require that the entrances be brought into compliance within 90 days receipt of the decision, with a follow-up site visit to be conducted by the staff

AB - second – carries with RG not present

TH - if they ask for a hearing, need to add onto an existing date

MB - motion to tentatively add additional hearing to next meeting

AB - second - carries

No More RG

31) Incoming: Abigail Adams Historical Building, 180 North St., Weymouth (V12-188)

TH - variance application – EXHIBIT

- interpretive house museum

- spending over 30%

- seeking ten variances

MB - schedule a hearing

CS - second - carries

32) Discussion: Melrose Commercial Building, 608-612 Main Street, Melrose (V12-068)

TH - need to additional votes

- lease rider and plans

CS - accept both the lease rider and the plan submittal

MB - second – carries

CS - accept and add to decision and send out

AB - second –carries

33) Incoming: Mount Greylock State Reservation Visitors Center, 30 Rockwell Rd., Lanesborough (V12-197)

TH - variance application (EXHIBIT)

- spending over 30%

- first variance is for 30.6.1c, pull side clearance for toilet stall, men's and women's rooms, 2 ½ inches provided

- stalls are oversized 10'10" by 5'4" with sinks in the stall

MB - grant

AB - second – carries

TH - 26.6.3 pull side clearance to the men's toilet room 12 ¼" women's room is 4 ½" will provide auto-openers

MB - grant as proposed

WW - second – carries

TH - route from acc. Parking to entry is 146 feet as the crow flies
- 30 feet of the most direct route exceeds 5%, 20 feet is 9% and 10 feet is 11%
- proposing adequate signage and drop-off area at entrance
- parking is less than 200 feet away
- where the route does comply, the route would be 190ft and will still propose to stripe that route
- variance for the slopes along the route

MB - grant as proposed

WW - second - carries

34) Discussion: Decisions and Minutes from 7/16/12

AB - accept

WW - second – carries with CS abstaining

35) Discussion: Motion To Go Into Executive Session

CS - executive session to discuss Walden street case

AB - second – carries

36) Discussion: end executive session

CS - end executive session and adjourn

WW - second - carries

- End of Meeting -